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Attorneys for Defendant
International Business Machines Corporation

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHARLES SEWARD, Individually, and on
Behalf of All Others Similarly Situated,

Plaintiff,

v.

INTERNATIONAL BUSINESS MACHINES
CORPORATION D/B/A IBM CORP.,

Defendant.

08 CIV 3976 (KMK)

ECF CASE

**DECLARATION OF SERGIO
BONICHE IN OPPOSITION TO
PLAINTIFF'S MOTION TO
PROCEED AS A COLLECTIVE
ACTION**

I, Sergio Boniche, declare:

1. I make this statement based on my personal knowledge. I am competent to testify to the matters set forth in this declaration.

2. I have been employed by IBM for approximately 18 years. Currently, I am the Business Process Owner for Payroll and Travel at IBM. I have been in this role since January 2007. In this role, I am, among other things, ultimately responsible for eTotals.

3. eTotals is IBM's web-based timekeeping system. eTotals is an exception-based timekeeping system. By default, eTotals credits employees with the hours they are scheduled to work. If an employee has an "exception" to his schedule, it is the employee's obligation to report this time in the eTotals system.

4. Exceptions include but are not limited to personal illness, unpaid absences, holidays, and overtime.

5. If an employee works additional hours, before or after his scheduled shift, the employee should record the time in eTotals. It is the employee's responsibility to accurately record all time worked.

6. Employees have access to eTotals, are trained how to use eTotals, and can make entries recording their time in eTotals.

7. All nonexempt IBM employees use eTotals to record their time.

8. Data from eTotals is used to generate payroll for nonexempt IBM employees.

9. eTotals is separate from the Company's telephone systems. It is also separate from any software that tracks call volumes or the time that employees are logged onto phone systems or employee productivity. Telephone systems and software used to track call volumes or time spent logged onto phone systems or employee productivity do not in any way factor into the processing of payroll. For example, the time that an employee logs in or out of a phone system has no effect on the processing of payroll or, consequently, the payment of overtime compensation. eTotals is the exclusive mechanism for processing nonexempt employees' time

for payroll purposes. Data from eTotals is not used for any purpose other than processing payroll.

10. All current employees have access to the IBM intranet. Former employees do not have access.

11. The predecessor system to eTotals was call "Totals." Totals worked the same as eTotals; the difference is that eTotals is web-based and Totals was not. Employees could access totals through a terminal that IBM referred to as a "Virtual Machine" or a "VM." All of the above statements about eTotals also apply to Totals.

12. This declaration is made in accordance with 28 U.S.C. § 1746, and I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 15 day of January 2009, in Atlanta, Georgia.


SERGIO BONICHE